

**The United States Senate Committee on Finance**

**Request for Submissions Regarding Proposed Bipartisan Tax Reform**

Honorable Orin G. Hatch, Chairman / Honorable Ron Wyden, Ranking Member

**Letter in Support of Urgent Measures to Reform United States Policy Respecting the  
Taxation of U.S. Citizens Permanently Residing Overseas**

Dear Committee Members:

I am a self employed U.S. citizen who has lived and worked outside the U.S. since 1996, and I am writing this letter to ask for your urgent support for tax reform as applied to U.S. citizens living abroad.

As a sole proprietor running a consulting business in multiple countries in Asia and raising two dual U.S. citizen children overseas, I have first hand experience with the significant costs, complexity and unfair treatment to which U.S. citizens living abroad are subjected to as a result of the current U.S. tax policy, including discrimination by financial institutions, based purely on the fact that I was born in the U.S. and one of my dual nationalities is U.S. citizenship.

As a preliminary matter, I would like to convey that I am and have always been a patriotic American, and I have and continue to serve the interests of the U.S. and maintain strong family and investment connections to the U.S. However, as a direct result of the current unfair U.S. tax policies applied to Americans living abroad, I am now planning for the day when I will have no choice but to renounce my U.S. citizenship in order to live a 'normal' life like my neighbors and colleagues in my country of residence. I am writing this letter to the Committee with the hope that the U.S. will move to Residence Based Taxation (RBT) without any further delay and not force me, and millions of other Americans living abroad, to make the emotional, permanent, and financially unsettling decision to sell our U.S. investments, cut our remaining economic ties to the U.S. and renounce our U.S. citizenship. This is exactly what the effect of the current U.S. tax policy is, and it is the opposite of what it should be.<sup>1</sup>

As you know, the U.S. is the only country (other than the small African nation of Eritrea) that taxes its citizens based on citizenship, rather than the world standard of residence based taxation (RBT). It is a well documented fact, that citizenship based taxation (CBT) as applied to a non-resident U.S. citizen permanently living abroad, is unfair, unworkable, overly costly, and damaging to the citizen and his/her international family. A U.S. citizen living overseas is already taxed by the country of his/her residence, and in addition to this potential double tax liability, many U.S. citizens face serious problems abroad that are the

---

<sup>1</sup> A well thought out and fair tax policy should encourage (i) investment in the U.S. by citizens living overseas without fear of disastrous life altering exposure to fines and penalties due to a complex and irrational expatriate tax policy, and (ii) continued economic and family ties to the U.S. The current policy does precisely the opposite.

direct result of legislation crafted in the U.S. without taking into account the particular circumstances of overseas Americans.<sup>2</sup>

The most recent example is FATCA, which is resulting in the loss of access to financial services, both at home and abroad, to U.S. citizens living overseas. As a result of FATCA, foreign spouses and partners are removing Americans from jointly-held bank accounts to avoid what they consider invasive intrusion into their personal and/or business affairs and families and relationships are being harmed; American entrepreneurs are becoming unwelcome in joint business ventures and in non-profit organizations; non U.S. companies are refusing to hire U.S. citizens, and it has become impossible to competitively run a small business overseas by a U.S. citizen as under current tax policy the U.S. citizen is effectively denied any tax benefits granted to a small business by the country of residence-due to the overlay of U.S. tax law onto the local national tax law.

The application of U.S. CBT policy to the operation of my sole proprietorship consulting business, results in outcomes that put me at a serious disadvantage to my competition from any other country.

In addition to U.S. income tax, I am required to pay U.S. self-employment tax, as well as the 3.8% Obamacare investment income tax. None of the charitable contributions I make in the country where I live are deductible on my U.S. return, and low tax incentive programs offered by my country of residence to foster investment and savings locally are completely nullified by the resulting extraterritorial U.S. taxes applied to monies earned and invested outside the U.S. with no nexus at all to the U.S. (other than the fact I also hold U.S. citizenship). Similarly, non U.S. trust and estate options that are available to my non U.S. citizen neighbors and colleagues in my country of residence are severely penalized by the application of current U.S. tax policy, making them completely not economically viable as options for family estate planning. The net result is that U.S. citizens living abroad are placed in a horrible Catch 22 by CBT.

The costs of my attempting to stay in compliance with the U.S. CBT policy are very significant. My U.S. tax returns must be prepared by a Big 4 accounting firm at a cost of over \$6,000 per year just for the return preparation, and this amount does not include other additional costs such as \$ 5,000 to report on form 5741 the details of a simple one man non-U.S. consulting company<sup>3</sup>, nor the additional costs now charged for preparing and filing form 8930 as now mandated by FATCA, or the cost of preparing FBAR TD F90-22.1.

---

<sup>2</sup> The examples of the problems created as a result of overlaying the U.S. tax code on top of the host nation's tax law and applying both laws simultaneously to a U.S. citizen (many of whom are dual citizens) living abroad are numerous and well documented. See, for example, <https://www.americansabroad.org/issues/taxation/>

Examples include an effective prohibition of a non-U.S. resident U.S. citizen from purchasing U.S. mutual funds, but at the same time severely penalizing him/her if s/he purchases a non-U.S. mutual fund through the application of so called 'PFIC' rules. Even greater problems arise in respect of the very complicated tax treatment of U.S. citizens' interests in non-U.S. retirement and tax deferred savings plans or other beneficial programs offered by the country of residence, as these programs are extraterritorially taxed by the U.S.

<sup>3</sup> Note that this charge has been \$5,000 per non-U.S. incorporated company, regardless of the fact it is simply a sole proprietor company. What is taken for granted in the U.S. as a straightforward way to

Frankly speaking, the U.S. provides absolutely *no* services to me living overseas for any of the above compliance costs or for the actual income taxes I am paying. All State Department services are based on the payment of additional fees.<sup>4</sup> U.S. citizens living overseas are not eligible for Medicare, Medicaid, unemployment payments or Obamacare benefits – but U.S. citizens are required to pay the full amount by way of taxes<sup>5</sup> for nothing from the U.S. in return other than a ‘right of return’ to the U.S. someday.<sup>6</sup>

The sad reality is that no other country in the world treats its citizens living abroad as unfairly and as poorly as the U.S. does with regard to taxes, and after 18 years of living abroad, and doing my best to try to stay in compliance, I must regretfully make plans to renounce my cherished U.S. citizenship simply to live a normal life in my country of residence unless the U.S. changes its draconian and unfair CBT tax policies and moves to the world standard of RBT.<sup>7</sup>

I request that the Committee take immediate and positive action to rectify this horrible and unfair situation. There are many examples of workable tax structures for expatriate citizens that are fairly applied, and I would urge the Committee to review how the United Kingdom, Canada, France, Australia and other countries deal with these issues on a fair and reasonable basis.

---

limit personal liability (i.e. to incorporate) is rendered economically impracticable for U.S. citizens living abroad. This is because a locally incorporated company is treated as a ‘foreign corporation’, and its local bank accounts are treated as ‘foreign bank accounts’ under U.S. law, without regard to the reality they are not ‘foreign’ to me, or the actual resulting costs to me by the U.S. characterizing them as such.

<sup>4</sup> The State Department fees for U.S. citizen services have skyrocketed in recent years, for example, (i) \$82 to add pages to a U.S. passport (in the past it was free), (ii) \$50 per page for consular notary services, and (iii) the cost to renounce U.S. citizenship was raised from \$420 to an unconscionable \$ 2,350 in the last year as a result of U.S. citizens being compelled to renounce due to U.S. CBT, FBAR and FATCA.

<sup>5</sup> Other than the Foreign Earned Income Exclusion (‘FEIE’) which is only marginally helpful. The FEIE excludes only a part of the U.S. citizen’s foreign earned income, and only applies to foreign earned *income*, and not to non-U.S. savings interest or other non-U.S. investment income. Thus, investments of non-U.S. source money overseas are currently taxed in the same manner as if it was a U.S. based investment, solely because one of the filers (e.g. the husband) is a ‘US Person’. In addition, the FEIE is of *no* assistance to U.S. citizen retirees living on fixed income investments, and although in many countries such fixed income interest payments are not taxable locally (e.g. interest or foreign pension payments), these payments are fully taxable by the U.S. thereby creating hardship, and an unequal tax obligation for U.S. citizens living abroad compared to other residents of that country.

<sup>6</sup> The likelihood of a U.S. military evacuation of U.S. citizens from Toronto, Paris, London, Singapore, Bangkok, Sydney or similar cities where most overseas U.S. citizens reside is infinitely small, and even then, the U.S. government charges the U.S. citizen for the evacuation, see, <http://travel.state.gov/content/passports/english/emergencies/crisis-support.html>.

<sup>7</sup> As the Committee knows, renunciations by U.S. citizens have, since FATCA and the current aggressive enforcement policies, been on a steep upward climb. In addition to the sheer upward movement of the numbers, the Committee should take note of the *quality and type of individuals who are renouncing*. The vast majority are educated, middle class, U.S. citizens living and working abroad or retirees - they are not ‘Fat Cats’ seeking to flee U.S. taxes and many, in fact, live in higher tax jurisdictions than the U.S.

Specifically, I urge the Committee to consider these possible simultaneous actions:

1. Change the definition of a U.S. person in [section 7701\(a\)\(30\) of the federal tax code](#). By changing the definition of a U.S. person for tax purposes in the code (e.g. if a U.S. person meets the bona fide residence test or physical presence test for two or three consecutive tax years), they should no longer be considered a “U.S. Person” for federal income tax and reporting purposes. This is a change that would provide overseas Americans with significant and immediate relief.
2. Support a move to tax U.S. citizens living overseas based on Residence Based Taxation as has been proposed, for example, by American Citizens Abroad;<sup>8</sup>
3. Support current legislation introduced by Senator Rand Paul (S.663) to repeal the Foreign account Tax Compliance Act, or amend it so that it would have no application to U.S. citizens living outside the U.S.;

Thank you for your attention and consideration of these critical issues to U.S. citizens living abroad, and I would again ask that the Committee take timely and positive steps to bring U.S. tax policy into alignment with the rest of the world and adopt Residence Based Taxation.

Respectfully submitted

Steven Klaus

March 29, 2015

---

<sup>8</sup> See the proposal of American Citizens Abroad’s for a move to Residence Based Taxation for Overseas U.S. Citizens:  
<https://americansabroad.org/files/6513/6370/3681/finalsubrbtmarch2013.pdf>